

SUPREME COURT OF WISCONSIN

CASE No. : 98-2795

COMPLETE TITLE :

John O. Norquist, Kevin M. Crawford, Michael R. Miller, Joseph Laux, Dan Thompson, Edward Huck, Gerald Jorgensen, Hunter Bohne, Janet Bohne, and Jill Bran,

Plaintiffs-Appellants-Petitioners,

v.

Cate Zeuske, in her official capacity as secretary of the Wisconsin Department of Revenue,

Defendant-Respondent,

Wisconsin Farm Bureau Federation, Cooperative, Farmers Educational and Cooperative Union of America, Wisconsin Division, National Farmers Organization, Wisconsin Agribusiness Council, Wisconsin Agri-Service Association, Inc., Wisconsin Cattlemen's Association, Cooperative, Wisconsin Corn Growers Association, Inc., Wisconsin Federation of Cooperatives, Wisconsin Pork Producers Association, Cooperative, Wisconsin Potato & Vegetable Growers Association, Inc., Wisconsin Soybean Association, Inc., Wisconsin State Cranberry Growers Association, Howard D. Poulson and Jeannette Poulson,

Intervening Defendants-Respondents.

REVIEW OF A DECISION OF THE COURT OF APPEALS
Reported at: 231 Wis. 2d 238, 604 N.W.2d 304
(Ct. App. 1999-Unpublished)

OPINION FILED: June 25, 2002
SUBMITTED ON BRIEFS:
ORAL ARGUMENT: April 11, 2002

SOURCE OF APPEAL:
COURT: Circuit
COUNTY: Dane
JUDGE: Daniel L. LaRocque

JUSTICES:
CONCURRED:
DISSENTED:
NOT PARTICIPATING: PROSSER, J., did not participate.

ATTORNEYS:

For the plaintiffs-appellants-petitioners there were briefs by *Robert Horowitz, Barbara A. Neider* and *Stafford Rosenbaum LLP*, Madison, and oral argument by *Robert Horowitz*.

For the defendant-respondent there was a brief by *F. Thomas Creeron, III*, assistant attorney general, and *James E. Doyle*, attorney general, and oral argument by *Peter C. Anderson*, assistant attorney general.

For the intervening defendants-respondents there was a brief by *H. Dale Peterson, Sverre David Roang* and *Stroud, Willink & Howard, LLC*, Madison, and oral argument by *H. Dale Peterson*.

NOTICE

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 98-2795
(L.C. No. 97-CV-2606)

STATE OF WISCONSIN

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IN SUPREME COURT

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Thompson, Edward Huck, Gerald Jorgensen,
Hunter Bohne, Janet Bohne, and Jill Bran,

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FILED

JUN 25, 2002

Cornelia G. Clark
Clerk of Supreme Court

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Division, National Farmers Organization,
Wisconsin Agribusiness Council, Wisconsin
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Growers Association, Inc., Wisconsin
Soybean Association, Inc., Wisconsin
State Cranberry Growers Association,
Howard D. Poulson and Jeannette Poulson,

Intervening Defendants-
Respondents.

REVIEW of a decision of the Court of Appeals. *Dismissed.*

¶1 PER CURIAM. This case is before the court on a petition for review filed by the plaintiffs, John O. Norquist, Kevin M. Crawford, Michael R. Miller, Joseph Laux, Dan Thompson, Edward Huck, Gerald Jorgensen, Hunter Bohne, Janet Bohne, and Jill Bran (hereinafter referred to collectively as "the plaintiffs"). The plaintiffs seek review of an unpublished decision of the court of appeals, Norquist v. Zeuske, No. 98-2795, unpublished slip op. (Wis. Ct. App. Oct. 7, 1999), affirming the circuit court's decision to dismiss the plaintiffs' complaint.

¶2 The underlying issue here is whether the plaintiffs have carried their burden to prove Wis. Stat. § 70.32(2r) unconstitutional. The Dane County Circuit Court, Reserve Judge Daniel L. LaRocque, presiding, dismissed the plaintiffs' case after concluding that the plaintiffs failed to carry their burden of proving the statute's unconstitutionality. The court of appeals affirmed, and we subsequently accepted the plaintiffs' petition for review.

¶3 At oral argument, held on April 11, 2002, plaintiffs' counsel noted that the plaintiffs seek only prospective relief. Consequently, plaintiffs' counsel conceded that this case is moot if we uphold the Department of Revenue (DOR) regulations implementing Wis. Stat. § 70.32(2r), providing for use-value

assessment of agricultural land as of January 1, 2000, as presented before us this term in Mallo v. Department of Revenue, 2002 WI 70, ___ Wis. 2d ___, ___ N.W.2d ___. Today we uphold the validity of the DOR regulations in Mallo; therefore, we follow plaintiff's counsel's concession and dismiss this case as moot.

¶4 For the reasons set forth, we conclude that our decision in Mallo makes this case moot, and we dismiss the petition for review.

By the Court.—The review of the decision of the court of appeals is dismissed.

¶5 DAVID T. PROSSER, J., did not participate.

